

Appl. No. 09/976,312
Amdt. Dated December 22, 2003
Reply to Office Action of September 26, 2003

• • REMARKS/ARGUMENTS • •

By the present amendment, independent claim 1 has been changed to recite that each of the substantially inelastic guide zones comprise an array of discrete inelastic portions of the elastically stretchable sheet members, said arrays having upper terminal ends which terminate near the waist-opening and lower terminal ends that are spaced apart from the leg-openings.

This change to the claims has been made to more clearly describe the structure of the inelastic guide zones are disclosed and shown in the drawings. That is, the guide zones are the entire length of the array of discrete inelastic portions of the elastically stretchable sheet members, and not just arbitrary portions of the arrays.

Also by the present amendment, claim 3 has been written in independent form inasmuch as the changes to claim 1 conflicted with the limitations of claim 3.

In addition, claim 3 has been changed to recite that the inelastic strips are bonded over an outer surface of one of said nonwoven fabrics so as to be exposed on an outer surface of said pants.

Support for the changes to claims 1 and 3 can be readily found in the drawings.

New dependent claim 9 has been added which recites that the array of discrete inelastic portions of the elastically stretchable sheet members comprises a linear array.

Finally dependent claims 10-13 have been added which depend from claim 2 and are similar to dependent claims that previously depended from claim 1.

Entry of the changes to the claims is respectfully requested.

Appl. No. 09/976,312
Amdt. Dated December 22, 2003
Reply to Office Action of September 26, 2003

Claims 1, 2, 4 and 8 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,591,155 to Nishikawa et al.

Claims 1, 3, 4, and 6-8 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,940,464 to Van Gompel et al.

Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Nishikawa et al. in view of U.S. Patent No. 4,936,840 to Proxmire.

Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Van Gompel et al. in view of Proxmire.

The Examiner has relied upon Nishikawa et al. as disclosing

...elastically stretchable disposable pants, as shown in figures 1 and 6, comprising a pair of elastically stretchable sheet members 10, a front waist region 36a, a rear waist region 36b, a waist opening and a pair of leg openings defined by bonding together the front and rear waist regions 36a and 36b. Substantially inelastic guide zones 52, as shown in figure 5, are provided between the central longitudinal axis and each of the side edges and have upper ends which terminate near the waist opening and lower terminal ends that are spaced apart from the leg opening. The inelastic guide zones 52 prevent stretching along a direction parallel to the central longitudinal axis. The guide zone 52 is disclosed in line 8 of the abstract as being inelastic.

The Examiner has relied upon Van Gompel et al. as disclosing:

...elastically stretchable disposable pants, as shown in figure 1, comprising a pair of elastically stretchable sheet members 24, a front waist region 42, a rear waist region 4, a waist opening 10 and a pair of leg openings 12, 14 defined by bonding together the front and rear waist regions 42, 44. Substantially inelastic guide zones 28, as shown in figure 5, are provided between the central longitudinal axis and each side edges 50, 56, 62, 68 and have upper terminal ends which terminate near the waist opening 10 and lower terminal ends that are spaced apart from the leg openings 12, 14. The inelastic guide zones 28 prevent stretching along a direction parallel to the

Appl. No. 09/976,312
Amdt. Dated December 22, 2003
Reply to Office Action of September 26, 2003

central longitudinal axis. The guide zone 28 is disclosed as being substantially inelastic in column 3, lines 24-25.

On page 6 of the Official Action the Examiner has stated that:

The claimed invention discloses inelastic guide zones, and the inelastic portions of Nishikawa and Van Gompel may be defined as a whole or in part as inelastic guide zones.

Claim 1 as amended herein requires that each of the substantially inelastic guide zones comprise an array of discrete inelastic portions of the elastically stretchable sheet members, and that the arrays have upper terminal ends which terminate near the waist-opening and lower terminal ends that are spaced apart from the leg-openings.

It is submitted that this structure defines over Nishikawa et al. and Van Gompel et al. so that the Examiner cannot rely on only a portion of the structural elements of these references as reading on applicants' claimed invention.

Accordingly, it is submitted that the Examiner cannot reply upon Nishikawa et al. or Van Gompel et al. as anticipating or otherwise rendering obvious the limitations of applicants' claim 1 or any claim depending therefrom.

With regard to claim 3, it is noted that the Examiner had relied upon Van Gompel et al. as teaching guide zones 28 that "comprise inelastic strips of sheet materials that are bonded to the nonwoven fabric along seam 38, as shown in figure 1.

The Examiner's interpreted "guide zones 28" of Van Gompel et al. are "intermediate members 28" that are connected between side member 24 and side member 26.

Appl. No. 09/976,312
Amdt. Dated December 22, 2003
Reply to Office Action of September 26, 2003

Accordingly, the Examiner's interpreted "guide zones 28" of Van Gompel et al. are not bonded over an outer surface of one of said nonwoven fabrics so as to be exposed on an outer surface of said pants as required by applicants' pending claim 3.

Accordingly, it is submitted that Van Gompel et. al cannot be relied upon as anticipating or otherwise rendering obvious the limitations of applicants' claim 3 or any claim depending therefrom.

The Examiner has relied upon Proxmire as teaching the use of an elastically stretchable sheet material as a liquid-impermeable backsheet.

It is submitted that the Examiner's further reliance upon Proxmire does not address or overcome the patentable differences between applicants' invention as claimed and either of Nishikawa et al. or Van Gompel et al.

Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §102 as anticipating applicants' claimed invention.

Moreover, the Examiner cannot properly rely upon the prior art as required under 35 U.S.C. §103 to establish a *prima facie* case of obviousness of applicants' claimed invention.

It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

Appl. No. 09/976,312
Amdt. Dated December 22, 2003
Reply to Office Action of September 26, 2003

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejection of the claims should hence be withdrawn.


Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

If upon consideration of the above, the Examiner should feel that there remains outstanding issues in the present application that could be resolved, the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,


Michael S. Gzybowski
Reg. No. 32,816

BUTZEL LONG
350 South Main Street
Suite 300
Ann Arbor, Michigan 48104
(734) 995-3110

105338.1